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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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20995	7590	03/08/2006	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP			DAVIS, GEORGE B	
2040 MAIN STREET			ART UNIT	
FOURTEENTH FLOOR			PAPER NUMBER	
IRVINE, CA 92614			2129	

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Please find below and/or attached an Office communication concerning this application or proceeding.



## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 14-33 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted step is of a step that make it clear what is the phrase "waiting a predetermined time interval" about? There is a gap between the phrase "waiting a predetermined time interval" and other steps in the independent claims 14, 18, 23, 26 and 29.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Altman et al, U.S. Pat. No. 5572421 in view of Brill, U.S. Pat. No. 5435324.

As per claims 1, 10 and 12, Altman discloses an automated diagnostic consulting using an automated medical advice or diagnostic system (portable medical questionnaire presentation device 20, figure 1) including a computer device (microcomputer 52, figure 4) and input (patient

keypad 26) and output (text display 22) devices. Further Altman et al discloses prestoring questions and corresponding expected answers in memory (ROM 138, column 9, lines 31-40), automatically asking a patient one of the prestored questions (figure 3D), automatically comparing the answer to a corresponding prestored expected answer (column 20, lines 10-13 and automatically ascribing the score to a result of a comparison (“calculating a weighted numerical value based on the answer”, at column 16, lines 16-26). Altman does not teach automatically comparing the score to a predetermined threshold value so as to determine a mental status of a patient. However, Brill teaches at column 9, lines 62-65, and column 10, lines 23-29, that a “large variety of specialized questionnaires may be provided to target specific health-related targeting particular health risks and medical conditions” and that the system is “easily adaptable” to present various questionnaires by “changing the text of the questions to be presented to a patient and by describing appropriate steps for analyzing the patient’s answers”. For instance, Brill teaches an apparatus for “measuring and quantifying a patient’s psychological condition” and for “administering psychotherapy based on such measurements” (see column 1, lines 11-15, column 2, lines 31-40, column 4, lines 52 and 53, Appendix A). Brill also teaches comparing the score of a predetermined threshold value (benchmark) to determine a patient’s mental state (see column 7, lines 28-37, column 8, lines 14-17). Thus, it would have obvious to one of ordinary skill of the art at the time the invention was made to include in Altman’s device a questionnaire to determine the mental status of a patient such as Brill’s because it provides an objective and reliable method for measuring a person’s mental state.

As per claims 2-9, 11 and 13, Altman does not teach in details recite patient information history including mental status, threshold value and assistance if threshold value not achieved

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and a third part assistance if needed. However Brill teaches patient information history including mental status, threshold value and assistance if threshold value not achieved and a third part assistance if needed ("benchmark" and column 7, lines 28-37, column 8, lines 14-17). It would have obvious to one of ordinary skill of the art at the time the invention was made to include in Altman's device a questionnaire to determine the mental status of patient as in Brill because it provides an objective and reliable method for measuring a person's mental state.

***Conclusion***

3. 35 U.S.C. 103(a) rejection is modified and a new 35 U.S.C. 112 2nd rejection is introduced. Therefore, this office action is made non-final.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Davis whose telephone number is (571) 272-3683. The examiner can normally be reached on Monday through Friday from 10:00 am to 6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Vincent, can be reached on (571) 272-3080. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-3800.

March 5, 2006

A handwritten signature in black ink, appearing to read 'GEORGE B. DAVIS', with a large, stylized loop at the end.

**GEORGE B. DAVIS**

**PRIMARY PATENT EXAMINER**